

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BAOXIN Q.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. C23-5206 RSM

**ORDER REVERSING DENIAL OF  
BENEFITS AND REMANDING  
FOR FURTHER PROCEEDINGS**

Plaintiff seeks review of the denial of his application for Supplemental Security Income. Plaintiff contends the ALJ erred by rejecting his symptom testimony and the medical opinions of (1) Dr. Widlan, (2) Dr. Peralta, and (3) Dr. Lindman. Dkt. 8. As discussed below, the Court **REVERSES** the Commissioner's final decision and **REMANDS** the matter for further administrative proceedings under sentence four of 42 U.S.C. § 405(g).

**BACKGROUND**

Plaintiff is 34 years old, has at least a high school education, and has no past relevant work. Admin. Record (AR) 25. In April 2020, Plaintiff applied for benefits, alleging disability as of January 1, 2010. AR 15, 64–65, 73. Plaintiff's application was denied initially and on reconsideration. AR 72, 81. After the ALJ conducted a hearing in September 2021, the ALJ issued a decision finding Plaintiff not disabled. AR 12–31.

## DISCUSSION

The Court may reverse the ALJ's decision only if it is legally erroneous or not supported by substantial evidence of record. *Ford v. Saul*, 950 F.3d 1141, 1154 (9th Cir. 2020). The Court must examine the record but cannot reweigh the evidence or substitute its judgment for the ALJ's. *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002). When evidence is susceptible to more than one interpretation, the Court must uphold the ALJ's interpretation if rational. *Ford*, 950 F.3d at 1154. Also, the Court "may not reverse an ALJ's decision on account of an error that is harmless." *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012).

### 1. Plaintiff's Symptom Testimony

Plaintiff testified that due to his anxiety, he has difficulties with concentrating and his memory. AR 48–52. Plaintiff stated he has panic attacks daily that are typically triggered by leaving home and being around others, and he can only leave if accompanied by his brother. AR 51–54. He explained that besides performing household chores, he spends most of his time at home on his computer, though he is only able to concentrate on his activities for about 20 minutes. AR 49–50, 55–56.

Where, as here, an ALJ determines a claimant has presented objective medical evidence establishing underlying impairments that could cause the symptoms alleged, and there is no affirmative evidence of malingering, the ALJ can only discount the claimant's testimony as to symptom severity by providing "specific, clear, and convincing" reasons supported by substantial evidence. *Trevizo v. Berryhill*, 871 F.3d 664, 678 (9th Cir. 2017). "The standard isn't whether our court is convinced, but instead whether the ALJ's rationale is clear enough that it has the power to convince." *Smartt v. Kijakazi*, 53 F.4th 489, 499 (9th Cir. 2022).

The ALJ primarily rejected Plaintiff's testimony because it was inconsistent with

1 Plaintiff's mental status findings. AR 21–22. “When objective medical evidence in the record is  
2 *inconsistent* with the claimant's subjective testimony, the ALJ may indeed weigh it as  
3 undercutting such testimony.” *Smartt*, 53 F.4th at 498. The record shows Plaintiff requested and  
4 was prescribed medication for his anxiety in October 2019. AR 305. By April 2021, Plaintiff  
5 had tried three different types of medication because he did not find any particular one effective  
6 in addressing his anxiety. AR 312, 347, 352, 356. However, outside of Plaintiff's complaints  
7 about the effectiveness of his medication, the record does not show Plaintiff's symptoms were as  
8 severe as he alleged. Instead, the record shows that throughout this time Plaintiff was  
9 continuously observed as alert and oriented and negative for agitation. AR 307, 311, 315, 347–  
10 48, 354, 358–59. Plaintiff's counseling notes show similar findings. AR 362, 388–95. At  
11 intake, he expressed issues with excessive worrying, phobias, restlessness, anxiety, sleeping  
12 problems, memory problems, and concentration issues. AR 392–95. Plaintiff's counselor noted  
13 his reports of anger and frustration about his situation and his family, but his treatment notes  
14 show his behavior, affect, thought process, perception, insight, orientation, mood, thought  
15 content, and judgment were all within normal limits. AR 362, 364, 366, 368, 370, 372, 374, 376,  
16 378–79, 382. Plaintiff's mental status examinations further support the ALJ's finding that his  
17 symptoms' severity did not rise to the level as testified by Plaintiff. They revealed a fair mental  
18 health prognosis, as well as other normal findings with regards to his attitude and behavior,  
19 stream of mental activity and speech, orientation, fund of knowledge, and abstract thinking,  
20 though he was found anxious at times with some deficiencies with his memory, concentration,  
21 and insight and judgment. AR 325, 338, 343.

22         The ALJ's finding that Plaintiff's statements as to intensity, persisting, and limiting  
23 effects of his symptoms are inconsistent with his medical record is supported by substantial

1 evidence. That his record continuously showed generally normal mental findings detracts from  
 2 Plaintiff's testimony about the severity of his panic attacks and anxiety. The ALJ, therefore, did  
 3 not err in rejecting Plaintiff's testimony.

4 The ALJ also rejected Plaintiff's testimony for other reasons, but because the ALJ has  
 5 provided at least one valid reason, supported by substantial evidence, the Court need not assess  
 6 those reasons. *See Carmickle v. Comm'r, Soc. Sec. Admin.*, 533 F.3d 1155, 1162 (9th Cir. 2008)  
 7 (including an erroneous reason among other reasons to discount a claimant's credibility does not  
 8 negate the validity of the overall credibility determination and is at most harmless error where an  
 9 ALJ provides other reasons that are supported by substantial evidence).

## 10 **2. Medical Opinion Evidence**

11 ALJs must consider every medical opinion in the record and evaluate each opinion's  
 12 persuasiveness, with the two most important factors being "supportability" and "consistency."!  
 13 *Woods v. Kijakazi*, 32 F.4th 785, 791 (9th Cir. 2022); 20 C.F.R. § 416.920c(a). Supportability  
 14 concerns how a medical source supports a medical opinion with relevant evidence, while  
 15 consistency concerns how a medical opinion is consistent with other evidence from medical and  
 16 nonmedical sources. *See id.*; 20 C.F.R. § 416.920c(c)(1), (c)(2). Under the new regulations, "an  
 17 ALJ cannot reject an examining or treating doctor's opinion as unsupported or inconsistent  
 18 without providing an explanation supported by substantial evidence." *Woods*, 32 F.4th at 792.

### 19 **a. Dr. Widlan**

20 Dr. Widlan completed a psychological evaluation in March 2021 by reviewing Plaintiff's  
 21 records and conducting a clinical interview with a mental status examination. AR 340–44. Dr.  
 22 Widlan opined Plaintiff is not able to persist with simple tasks, he becomes easily overwhelmed,  
 23 and he cannot negotiate simple social stressors on a consistent and routine basis due to his social

1 anxiety and characterological dysfunction. AR 344. He opined Plaintiff “appears to have  
2 considerable deficits in ADLs and in all likelihood would not be able to live independently.” *Id.*

3 The ALJ first rejected Dr. Widlan’s opinion because his evaluation was on a limited basis  
4 and he was not able to review Plaintiff’s entire record. AR 24. The length of a claimant’s  
5 treatment relationship with a medical source is a factor an ALJ can consider, 20 C.F.R.  
6 416.920c(c)(3)(i), but it is not the most important one. *Woods*, 32 F.4th at 791. Rather, the  
7 ALJ’s evaluation of a medical opinion’s supportability and consistency takes priority, therefore  
8 the Court cannot say this factor alone is a valid enough reason to reject Dr. Widlan’s opinion. *Id.*

9 However, the ALJ did consider the consistency of Dr. Widlan’s opinion with Plaintiff’s  
10 longitudinal record and the ALJ’s evaluation is supported by substantial evidence. AR 23. The  
11 ALJ permissibly rejected Dr. Widlan’s opinion as to Plaintiff’s inability to live independently as  
12 this contrasted with Plaintiff’s self-reports, which state that besides driving, he is able to manage  
13 self-care, perform household chores, and manage his finances. AR 248, 325. The ALJ also  
14 permissibly rejected the rest of Dr. Widlan’s opinion by relying on Plaintiff’s mental status  
15 findings, which, as discussed above, show Plaintiff was often alert and oriented, and negative for  
16 agitation. AR 305–21, 345–59. The ALJ’s reliance on Plaintiff’s counseling notes is likewise  
17 reasonable, as they show that despite his reports of anger and frustration, his mental functioning  
18 was consistently within normal limits. AR 362–382.

19 Plaintiff’s ability to independently function directly contradicts Dr. Widlan’s opinion and  
20 Plaintiff’s normal mental functioning, even when faced with external stressors, undermines Dr.  
21 Widlan’s opinion about Plaintiff’s inability to handle stress even on a simple level. Given these  
22 results, the ALJ could reasonably find Dr. Widlan’s opinion inconsistent with Plaintiff’s record.  
23 Accordingly, the Court finds the ALJ did not err in rejecting Dr. Widlan’s opinion. Further,

1 because the ALJ provided at least one valid reason to do so, any erroneous reasoning proffered  
2 by the ALJ is deemed harmless. *See Carmickle.*, 533 F.3d at 1162.

3 **b. Dr. Peralta**

4 Dr. Peralta completed a questionnaire prepared by Plaintiff's counsel in August 2021 and  
5 opined that the severity of Plaintiff's anxiety and panic episodes would result in absenteeism.  
6 AR 360–61.

7 The ALJ permissibly rejected Dr. Peralta's opinion because it lacked supportability. AR  
8 24, 360. When weighing a medical opinion's persuasiveness, the ALJ must look to whether the  
9 medical source provided relevant objective medical evidence and relevant explanations to  
10 support his or her opinion. 20 C.F.R. § 416.920c(c)(1). Here, the ALJ explained that both Dr.  
11 Peralta's answers in the questionnaires, as well his own treatment notes, showed neither  
12 objective evidence nor relevant explanations that could reasonably support his opinion. AR 24.  
13 Dr. Peralta's responses were vague and limited to one to two-word answers, while his treatment  
14 notes show Plaintiff was alert and oriented, well-developed and well-nourished, and negative for  
15 agitation. AR 345–59. Given the lack of supporting information indicating that the severity of  
16 Plaintiff's conditions would result in absenteeism, the ALJ could reasonably find Dr. Peralta's  
17 opinion lacking in supportability. Accordingly, the Court finds the ALJ did not err in rejecting  
18 Dr. Peralta's opinion.

19 **c. Dr. Lindman**

20 Dr. Lindman completed a mental status examination report in July 2020. AR 322–26.  
21 Based on a review of Plaintiff's records and an examination, Dr. Lindman opined Plaintiff has a  
22 lack of concentration that would negatively impact his work environment because of his anxiety.  
23 AR 325. Dr. Lindman found Plaintiff's ability to interact with coworkers and the public,

1 maintain regular attendance in the workplace, and complete a normal work day or work week  
2 without interruptions “moderately impaired.” *Id.* Dr. Lindman also opined Plaintiff’s ability to  
3 deal with usual stress in the workplace “mildly impaired.” AR 326. Dr. Lindman further opined  
4 Plaintiff “would be capable of only the simplest of jobs with his learning disability and would  
5 need successful treatment of his social phobia to allow him tolerance of strange situations.” *Id.*

6 The ALJ found Dr. Lindman’s opinion partially persuasive. AR 23. The ALJ accepted  
7 Dr. Lindman’s proposed mild to moderate limitations because they were consistent with the  
8 longitudinal record. AR 23. However, the ALJ rejected Dr. Lindman’s proposed restriction  
9 limiting Plaintiff to simple jobs, explaining that Dr. Lindman’s basis for it—Plaintiff’s learning  
10 disability—seemed to have been based on Plaintiff’s self-report. *Id.*

11 The ALJ’s finding that Dr. Lindman’s proposed mild to moderate limitations is consistent  
12 with the longitudinal record is not supported by substantial evidence. In finding this portion of  
13 Dr. Lindman’s opinion persuasive, the ALJ relied on Plaintiff’s mental status during his  
14 appointments, evaluations, and counseling. AR 23, 325, 338, 343, 362, 364, 366, 368, 370, 372,  
15 374, 376, 378–79, 382. However, these mental status findings do not expressly address social  
16 interaction with coworkers and maintaining attendance, the functionalities Dr. Lindman opined  
17 Plaintiff would have mild to moderate difficulties performing. By failing to explain how  
18 Plaintiff’s normal presentation necessarily supports this portion of Dr. Lindman’s opinion, the  
19 ALJ erred.

20 However, the ALJ did not err in rejecting the portion of Dr. Lindman’s opinion regarding  
21 Plaintiff’s learning disability. AR 22. The ALJ’s finding that this was based on Plaintiff’s self-  
22 report, rather than objective medical evidence or relevant explanations from Dr. Lindman  
23 herself, is reasonable. AR 22. Plaintiff argues Dr. Lindman’s evaluation included a learning

disorder diagnosis, and while that is true, there does not seem to be any evidence showing how Dr. Lindman made such a determination. Dkt. 8 at 6; AR 325. As previously stated, when weighing a medical opinion's persuasiveness, the ALJ must look to whether the medical source provided relevant objective medical evidence and supporting explanations. 20 C.F.R. § 416.920c(c)(1). Here, references to Plaintiff's learning disability throughout the opinion are attributed to Plaintiff, rather than any objective evidence. AR 322 ("Self-stated symptoms of a learning disorder are a history of ESL classes from 1<sup>st</sup> grade to 7<sup>th</sup> grade 1 and then Special Education thereafter."). The records Dr. Lindman reviewed as part of the evaluation also did not concern Plaintiff's learning disability, but rather his acne and anxiety. AR 307, 347. Further, except for Plaintiff's statements about attending ESL cases, the rest of Plaintiff's record is silent as to this issue. *See* AR 247, 255, 270.

In sum, the Court finds the ALJ partially erred in evaluating Dr. Lindman's opinion.

### **3. Scope of Remedy**

Plaintiff suggests the Court remand this matter for an award of benefits. Dkt. 8 at 6. Remand for an award of benefits "is a rare and prophylactic exception to the well-established ordinary remand rule." *Leon v. Berryhill*, 880 F.3d 1041, 1044 (9th Cir. 2017). The Ninth Circuit has established a three-step framework for deciding whether a case may be remanded for an award of benefits. *Id.* at 1045. First, the Court must determine whether the ALJ has failed to provide legally sufficient reasons for rejecting evidence. *Id.* (citing *Garrison*, 759 F.3d at 1020). Second, the Court must determine "whether the record has been fully developed, whether there are outstanding issues that must be resolved before a determination of disability can be made, and whether further administrative proceedings would be useful." *Treichler v. Comm'r of Soc. Sec. Admin.*, 775 F.3d 1090, 1101 (9th Cir. 2014) (internal citations and quotation marks



1 omitted). If the first two steps are satisfied, the Court must determine whether, “if the  
2 improperly discredited evidence were credited as true, the ALJ would be required to find the  
3 claimant disabled on remand.” *Garrison*, 759 F.3d at 1020. “Even if [the Court] reach[es] the  
4 third step and credits [the improperly rejected evidence] as true, it is within the court’s discretion  
5 either to make a direct award of benefits or to remand for further proceedings.” *Leon*, 880 F.3d  
6 at 1045 (citing *Treichler*, 773 F.3d at 1101).

7       Only the first step is met here, as the Court has found the ALJ erred in the evaluation of  
8 Dr. Lindman’s opinion. Such an error necessarily affects Plaintiff’s residual functional capacity  
9 (RFC). *See Valentine v. Comm’r of Social Sec. Admin.*, 574 F.3d 685, 690 (9th Cir. 2009) (“an  
10 RFC that fails to take into account a claimant’s limitations is defective”). The assessment of  
11 Plaintiff’s RFC is within the purview of the ALJ, therefore the Court is precluded from moving  
12 to the third step of the credit-as-true framework. *Dominguez v. Colvin*, 808 F.3d 403, 409 (9th  
13 Cir. 2015) (“[T]he district court must ‘assess whether there are outstanding issues requiring  
14 resolution *before* considering whether to hold that [the rejected evidence] is credible as a matter  
15 of law.’”) (quoting *Treichler*, 775 F.3d at 1105).

16       On remand, the ALJ shall reevaluate Dr. Lindman’s opinion, reassess Plaintiff’s RFC and  
17 all relevant steps of the disability evaluation process. The ALJ shall conduct all further  
18 proceedings necessary to reevaluate the disability determination in light of this opinion.

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**CONCLUSION**

For the foregoing reasons, the Commissioner's final decision is **REVERSED** and this case is **REMANDED** for further administrative proceedings under sentence four of 42 U.S.C. § 405(g).

DATED this 4<sup>th</sup> day of August, 2023.



RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE